

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TYRELL KNIGHT,)	
)	4:04cv3383
Plaintiff,)	
)	MEMORANDUM AND ORDER
vs.)	
)	
OFFICER MERRILL,)	
)	
Defendant.)	

This matter is before the court on filing nos. 28 and 29, in which the plaintiff, Tyrell Knight, seeks to certify a class in order to proceed as a class action in this litigation. However, the plaintiff, as a pro se litigant, may not represent other parties. "Every court that has considered the issue has held that a prisoner proceeding pro se is inadequate to represent the interests of his fellow inmates in a class action." Craig v. Cohn, 80 F. Supp.2d 944, 946 (N.D. Ind. 2000) (citations omitted). Accord Oxendine v. Williams, 509 F.2d 1405, 1407 (4th Cir. 1975) ("it is plain error to permit this imprisoned litigant who is unassisted by counsel to represent his fellow inmates in a class action."). See also Fymbo v. State Farm Fire and Cas. Co., 213 F.3d 1320, 1321 (10th Cir. 2000): "A litigant may bring his own claims to federal court without counsel, but not the claims of others." Accord Allnew v. City of Duluth, 983 F.Supp. 825, 831 (D. Minn. 1997).

In filing no. 29, the plaintiff states that "in the alternative" he would like to appeal. The plaintiff may not appeal "in the alternative." Instead, in order to appeal, he must file a Notice of Appeal or the appropriate pleadings for an interlocutory appeal. In either event, he will become immediately liable for the \$255 appellate filing fees. Even if the plaintiff files a motion to proceed in forma pauperis on appeal, supported by a certified copy of his trust account statements for the last six months, and even if such a motion were to be granted, the plaintiff's institution will collect the \$255 from his inmate trust account as funds are deposited into the account. With that information, if the plaintiff wishes to file an appeal, he shall do so properly. Filing nos. 28 and 29 are denied.

SO ORDERED.

DATED this 18th day of May, 2005.

BY THE COURT:

/s/ Joseph F. Bataillon
Chief District Judge